B July 11 Ser. 16 13 SR 61-09
Dec 05 Ser 1-4 SR 29 05
4 may 06 Ser 1-5 SR 114-05

Previous references.

1911

(Sep. Rev.)

Later references.

File No. 236-11

Serial Nos. 1-5

31 P

8

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-5

Part B. for May 13

SUBJECT.

Refunds under the Stamp Regulation in the Tumkur District.

From Sivanagere Venkatasubba Rao, Devanhalli.
Petition Dy 29-5-12
Appeals against the Tumkur Dy Comrs order declining to interfere in the matter of the levy of stamp duty and penalty on a plain paper lease deed executed by him, the levy having been ordered by the Sub Division officer, Maddagere

2. To the D.C. Tumkur No H 5 38 3 Dy 14-6-12

G. R. S. 58 Forwards the petition for report and enquires under what authority the Sub Divisional officer Maddagere exercised the powers of a Deputy Comr under the Stamp Regulation in dealing with the document.

Comrs Order 28 6 13

G.R.S. 11] 191

GENERAL AND REVENUE SECRETARIAT.

(S.R.)

NOTES.

File No. 236-11

FILE HEADING.

Refunds under the Stamp Regulation in the Tumkur Dt

From

Bivanagere Venkatasubba Rau, Devarhalli

No. Petition Dated 29.5.1912 Received 29.5.12

Diary No. 4457 Enclos. (Spare Copies. Serial No. /

BRIEF ABSTRACT OF LETTER.

Appeals against the Tumkur Dy Com^r order declining to interfere in the matter of the levy of stamp Duty & penalty on a plain paper lease deed executed by him, the levy having been ordered by the Sub-Divisional Officer, Maddagiri.

NOTES AND ORDERS.

The lease in question being one for the purpose of cultivation and the ~~annual~~ average rent reserved being only Rs 6-6-0 the petitioner claims exemption from Stamp Duty (Vide Art 33, Sch I Stamp Reg^n)

2 The Sub Registrar Maddagiri before

N

NOTES—First Sheet.

GPB—30,000—12-8-11

G. R. S. 12]

General and Revenue Secretariat. | S.R. File No. 286 of 1911

Serial No.

whom the document was presented for registration, is said to have impounded it & sent it on to the ~~D.C.~~ Divisional Asst Com. Maddagiri, who ordered the levy of the duty and penalty

3. In the absence of the original document it is not possible to say if the order passed in the case is correct. The petition may therefore be sent to the D.C. Tumkur for report with the records relating to the case.

4. In passing the passing order in the case the Sub-Divisional Officer has apparently exercised the powers of a Deputy Com under the Stamp Regulation. This is not correct, as the notification of 29th Jan 1884 (no. 308) considering the Officer in charge of a Sub Division as the collector for the purposes of the Stamp Act has recently been cancelled, vide notfn no. 7E 73-S.R 61-09-13 dt 7-7-11.

5. Submitted with a draft calling for a report on the petition enquiring under what authority the Divisional Asst Com passed order in the case. The Petr asks for a stay order pending disposal of this petition. Order on this

NOTE—Contn. sheet.

GPB—20,000—20-1-12

(B

G. R. S. 12]

General and Revenue Secretariat. | S R File No. 236 of 1911

Serial No.

point are solicited.

Asst 12/ 4/6/12 6. May be appd

Stay of Execution does not seem to be quite necessary.

5/6/12

7. Appd

11/6/12 8 Issue

13/6/12

2 To the D.C. Tumkur

No. H. 5383-Dy. 14-6-12

9. Forwards the petn for report and enquires under what authority the Sub Divisional officer, Maddagiri exercised the powers of a Deputy Com under the Stamp Regn in dealing with the document.

P. T. O

NOTE—Contn. sheet.

GPB—20,000—20-1-12

(4

F. R. S. 12]

General and Revenue Secretariat. | S. R File No. 286 of 1911

Serial No.

10. The report called for in the case has not yet been received.

Subd with a draft reminder

Asst
12/11
15/11

11. 28 Sig

28/11/12

To the Dy. Coll., Tumkur dr.

Reminder no. H3105 Dy 26-11-12

Sm. 1/12

12. Requests him to expedite the submission of the report called for in the case.

~~Collector's proceedings:~~

3 From

The Deputy Commissioner, Tumkur dt.

No. 285 dated 5-1-1913

13. Reports the circumstances under which the Divisional Asst. Commr. of Maddagiri exercised the powers of a Collector (Dy: Commr.) & ordered levy of the duty and penalty on the document in question from the appellant.

14. The lease in question (Sagunvali Cheeti, as it is called in the document) purports to stipulate that from

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat.

G.—R. File No. 236 of 1911-12

Serial No.

the year Plava, the land has been given out to the lessee for cultivation on an annual rent of Rs. 6-6-0 (including cess) & that ~~if~~ the party to pay the amount in any year, the land will be ~~[illegible]~~ got cultivated by other means (or agency).

On this order, the 13th Sept 1907, the District Registrar of Guntur considered that the lease is not exempt from stamp duty, inasmuch as a definite term has not been specified and directed the Sub-Registrar of Madagiri to impound the document and take steps for the adjudication of stamp duty by The Divisional Asst: Commr of Madagiri (Dr C. Venkata Rao), in exercising the powers of a Dy: Commissioner, under the Stamps Regulation ordered on the 24th Sept 1907 * that a stamp duty of one rupee & penalty of five rupees (total Rs. 6) should be levied.

15. Against this order, the party has preferred an appeal *

Flag W

Flag T

* N.B. On this date the Regn. of 1884 was still in force. Hence, the exercise powers of a D.C. It was cancelled only on 7-7-1911. (Flag U)

* Flag S

NOTE—Contn. sheet.

GPB—85,000—17-6-12.

R. S. 12]

General and Revenue Secretariat. | S-R. File No. 236 of 1911-12

Serial No.

to Govt., on the ground that the lease comes under the exemption to Art 33 of Schedule I, Mysore Stamps Regulation, 1900. If deemed fit, the Govt. Advocate may be consulted.

Submd. for orders.

(93)
17/1/1913
16/1 I am inclined to be of opinion that the lease in this case is exempt from stamp duty. Reading the exemption clause of Art 33 of Schedule I, I think there are two classes of leases exempted therein (1) leases for a definite period not exceeding one year whatever the annual rent may be + (2) leases reserving an annual rent of less than 100 Rs, whatever the term may be. If this intrepretation is correct, the present lease in question comes under class (2) + seems therefore to be exempt from stamp duty. This intrepretation is supported by the

NOTE—Contn. sheet.

GIP—65,000—17-6-12.

4451

R. S. 12]

General and Revenue Secretariat.

8-R. File No. 236 of 1911-12

Serial No.

Judgment of the Bombay High Court in I.L.R. VI Bomb. p. 691

21-1-1913

17. Forwarded unofficially to the Govt. Advocate for favour of opinion in the matter.

By order
S. Rajagopal
for Sec.y

No. 7C 82 of 21-1-1913
2 Volumes
1 Vernacular
1 Collection
1 Pl.
5

18. The exemption in art 33 Sch I of the Mysore Stamp Reg.n has reference to all leases executed in the case of a cultivator without the payment or delivery of any fine or premium (1) whatever the reserved or annual rent may be provided that the term fixed does not exceed one year (2) whatever the term may be provided that the average annual rent reserved does not exceed 100 Rs. The "Saguvali chit" in question

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

U.O. No. 30.

Serial No.

is Covered by Class (2) referred to above & is, in my Opinion, Exempt from Stamp Duty.

Endorsement Yes

22.1.13. for Asst.

Submitted with a draft.

24/1/13

2. A revised draft, as instructed by the Asst. Secy. is submd. A draft endorsement to the appellant is also put up.

24/1/13

Dy Secy 4)

28.1.13

24. The case reserves yearly rent: & is apparently for more than a year. Yet the four conditions of the "Exemption clause" are complied with by it viz. (1) it is executed in the case of a cultivator, (2) for the purposes of cultivation, (3) without the payment or delivery of any fine or premium & (4) the average annual rent reserved is less than Rs 100:. The drafts may be approved.

1st Councillor) D Narasimhalu

28/1

29/1/13

22. The provisions of S. 45 of the Stamp Regn Come into Operation only when the Petn has

NOTE—Contn. sheet.

GPB—50,000—13-5-08

R. S.-12]

General and Revenue Secretariat.

S—R. File No. 236 of 1911—12

Serial No.

Paid the Amount of the duty & Penalty. From a mere order there lies no appeal apparently. Unless the procedure indicated in the office notes can be justified, the Petr may be informed that Govt cannot interfere under S. 48 as he has not paid up the duty & penalty.

18/2/13

23. I beg respectfully to submit that the action proposed to be taken in this case is not under Sec. 45 of the Stamp Regn but under Sec. 56 (1) of the Regn. Sec. 45 seems to apply only to cases where it is intended to refund the penalty already

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat. | S. R. File No. 236 of 1911-12

Serial No.

paid irrespective of any wrong decision that may have been arrived at by the Dy Comr. It refers to an act of discretion regarding the repayment of any any sum levied under the Regn But Section 56 (1) refers invests the Chief Controlling Revenue Authority with certain powers of revision of all the powers exercisable under by a Dep.y Comr under Chap IV & V of the Regn. In this case, the Dep.y Comr levied and ordered the levy of duty & penalty, presumably under Sec. 40(1)(b) Chap IV. Therefore the order of the Dy Comr is open to revision by Govt under Sec. 56 (1)

24. The Same Conclusion that viz that an order passed by the Dy Comr under Sec. 40(1)b is appealable, is also arrived at from a consideration of the ~~preamble~~ intention of the legislature on the matter. What was intended under this Section has to be ascertained with reference to the British Indian Act of which the Mysore Stamp Regn is an adaptation. Sec. 56 (1) was newly inserted in the

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

F. R. S. 12]

General and Revenue Secretariat. | G. R. File No. 236 of 1911-12

Serial No.

Jagannatha Iyer p. 208.

Stamp Act (II of 1899) Such a power of revision was absent in Act I of 1879 which it superseded, though it was existing in the Act before that Viz Act XVIII of 1869. Sec. 40 of Act XVIII of 1869 says "All certificates & orders of the Collector shall be open to revision". It was this provision, which was omitted in the act of 1879 & restored in the act II of 1899. Thus it is clear that all orders under Chapter IV are open to revision by Govt.

* Jagannatha Iyer appendix B p clii

25. This particular point was discussed in a Full Bench Case 25 Madras p 752. Though the main point decided in the case was that the High Court had no jurisdiction to offer an opinion regarding a Certificate issued by a Collector under sec 40 1 (a), the particular point now in question was also dealt discussed. At p 766, Bhashyam Iyengar J says "When the Collector proceed under Sec. 40 (1) (b) he first makes a requisition for the payment of the duty..... If the party delays payment, there will be

NOTE—Contn. sheet.

GPB—85,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat.

S & R File No. 236 of 1911-12

Serial No.

necessarily an interval between the impounding or the receipt by the Collector of the instrument & his certifying & the Board can interpose its ~~control~~ control [under Sec. 53(1)] during such interval." This statement of the law was agreed to by Moore J who was later on Chief Judge of the Chief Court Mysore who says (p. 766): "The inference to be drawn is, I believe that the Board can interfere with an order passed under Sec. 40 sub section (1) (b)."* Even

26. For these reasons, I respectfully submit that the order of the D^y Com^r [illegible] imposing duty & penalty in this case can be set aside in revision by the Govt under Sec. 56 (1).

*Thus the right of the Chief controlling authority to interfere with orders passed by D^y Com^rs under Chap. IV & V has been clearly recognised.

D^y Sec^y)

(1st Counsellor)

SR 25/2/13

Draft 24/2

SR 24/2

To See 25 Mar

Put up and Subs

+SR File No 114 of 05-6
SR. File No 29 of 05-6
S.I.-4

SPR

As there are precedents to admit an appeal, the draft is appd —

26/4/13

Issue both drafts

SPR 26/4

NOTE—Contn. sheet.

GPB—55,000—17-6-12.

G. R. S. 12]

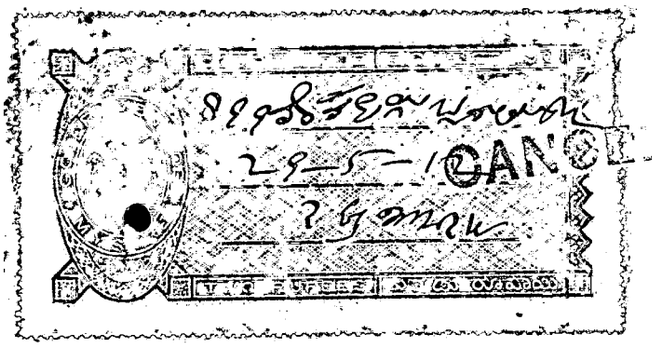
General and Revenue Secretariat.

G. R. File No. 236 of 1911—12

Serial No.	
4	Y. The Dy: Commr., Tumkur & " Dy: Commrs. of other dts. & " Comptroller to the Govt. No. Fe. 6398-406 & 2.5.1913 Observes that the lease in question falls under the exemption to Art. 33 of Schedule I of the Mysore Stamps Regulation, 1900 and directs refund of the duty and penalty, if levied from the appellant.
5	Y. Sivanagere Venkata Subba Rao Devanahalli No. Fe. 6407 & 2.5.1913 Informs him that his appeal is admitted and necessary orders issued to the Dy: Commr.

NOTE—Contn. sheet.

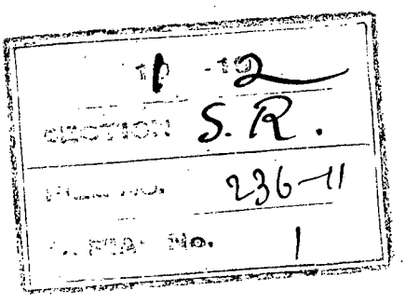
GPB—65,000—17-6-12.



(1

DIARY No. 4451

Presented by Venkatachar in person
II
B
29/5/12
S.R.



Before the Government
of Mysore
Revenue appeal case No.
of 1911. 1912.

Appellant Sivanagere Seetharamiah Subbarao
residing at Devanahalli.

Under Section 45 of the Mysore
Stamp Regulation No II of 1900,
the appellant abovenamed most
respectfully begs to prefer this
appeal against the order (Endorsement)
dated 5. 3. 1912, of the Deputy
Commissioner, Tumkur District
(which Endorsement is herewith produced)
for

for the following reasons, namely:—

I That the land called "Badehola in the Sivanagere village of the Doddericommath, Maddagiri Talak belongs to the appellant. He leased it to one Hama residing in the said Sivanagere village in September 1907 under a plain paper deed at an annual rent of Rs 6-6-0. No definite term is mentioned in the deed. This is a Sagavali Karar.

II The appellant produced it before the Sub Registrar at Maddagiri for registration. The appellant asked for the return of the bond and he was informed that it was impounded.

III The appellant was asked by the Devanahalli Kasba Shirkdar to pay the duty and penalty on the above deed. It would seem an order was issued by

the

the Maddagiri Sub division Office to recover this amount from the appellant.

IV The appellant did not pay, as yet, the said amount since the said deed was not chargeable with any fee.

V The appellant thereupon submitted a petition to the deputy Commissioner Tumkur District who thereupon passed the order (Endorsement) appealed against.

VI The appellant most humbly and respectfully begs to submit that the order directing the recovery of duty and penalty on the said deed from the appellant is opposed to Law.

VII The appellant begs to submit that the deed in question falls under the Exemption under Article 33 of Schedule I of the Mysore Stamp Regulation II of 1900 and as such is not chargeable with any fee.

(4)

VIII The appellant most humbly and respectfully prays that the order directing the recovery of duty and penalty on the deed in question may be kindly set aside.

IX The appellant also most humbly and respectfully prays that an order may be kindly passed for the stay of execution of the order directing the recovery of duty and penalty pending the disposal of this appeal.

29.5.1912

Enclosure to letter No 236-11

(5)

Medical Officer
Dr.
16th
6.9.12

(7)

G.R.S. 26]

File No. 236-11

Serial No. 2

1/7/6

Diary No. of letter replied to 4451

No. Je 5383

& 14 June 12

General and Revenue Secretariat

(SupRev -)

, the *19* .

To

The Deputy Com^r

Tumkur Dt

Date of issue 14-6-12

Sir

Signed by W Krishnamurthy

I am directed to forward herewith for an early report a petition dy 29.5.1912 from Sivanagere Venkatasubbaram a resident of Devanhalli in the matter of the stamp duty and penalty ordered to be levied on a lease deed executed by him and to enquire under what authority the Sub Divisional Officer, Maddagiri

with the records of the case

over.

SUBJECT.

exercised the powers of a Dep.t.y
Com.r under the Stamp Regulation
in dealing with the document
in question.

I have &c

for C.H. Grey

11/6/12

A.G.
4/6/12

List of enclosures,

Copied by

Examined by

GPB—20,000—26-9-10

191 2 · 13.

From

The Deputy Commissioner
Tumkur District.

To

The Secretary to the
Government of Mysore,
General and Revenue
Departments, Bangalore

Dated 5th } January 1913
Despatched 7th }

Received

General No. 285

No.

Enclosure No. One file.

Reports in detail
the circumstances
under which the Stamp
duty was levied by the
Sub-Divisional Officer
of Maddagiri on
a lease deed executed by
one Sivanagere Venkata
Subbaraw of Devanahalli

DIARY No. 2395

10/2-1913
SECTION F2
FILE No. 236-11
COPIAL No. 3

GPB—5,76,000—6-4-12

Office of the
Deputy Commissioner,
Tumkur District,
Dated, Tumkur, 5th January 1913.

From

C. S. Balasundaram Iyer, Esq., B.A.,
Offg. Deputy Commissioner,
Tumkur District.

To

K. R. Srinivasiengar, Esq., M.A.,
Offg Secretary to the Government
of His Highness the Maharaja
of Mysore,
General and Revenue departments,
Bangalore.

Sir,

With reference to your letter
No Fb. 5383 dated 14th June 1912,
S.R. 236-11-2
forwarding a petition from one
Sivanagere Venkata Subbaram,
a resident of Devanahalli, in
the matter of the levy of Stamp
duty and penalty on a lease
deed executed by him for
report and also enquiring of
the authority under which the
Sub. Division Officer of Maddagiri
exercised

exercises the powers of the Stamp Collector, I have the honour to invite reference to Government Notification No 308 dated the 29 th January 1884 directing that Sub. division Officers be deemed to be Collectors within the meaning of the Stamp act. In this office No 896 dated 19. 1. 1907 the Sub. division Officers were directed to dispose of Stamp cases under that Notification and the order now appealed against was passed by the Sub. divisionalOfficer, Maddagiri on 24. 9. 1907.

In Government Notification No Fb. 73 - 8N. 61-09-13 dated 7 th July 1911, the powers conferred on Sub. Divisional Officers has been withdrawn.

The file of vernacular papers, together with the appeal petition

~~appeal~~ petition ending with the Dodballapur Division officer's Yadi No 17 dated 22nd July 1912 is submitted for reference.

I have the honour to be,

Sir,

Your most obedient servant,

B Narasimhaiya

Assistant Commissioner

for 6869. Deputy Commissioner,

absent from the Station.

NRD

G.R.S. 28]

28/4/13

12

2 drafts

√R File No. 236 of 11

Serial No. 4

Diary No. of letter replied to 445 1911-12

2395 12-13

GENERAL AND REVENUE SECRETARIAT.

(7l)

Proceedings of the Government of His Highness the Maharaja of Mysore

, the 191

Feng 5

Date of issue 2 May/13

Signed by W Rajagopala Chandevanahalli

READ—

Letter Petition dated the 29th May 1912 from one Swamagere Venkatasubba Rao residing in appealing against

ORDER THEREON.—No. the order of the the 24th Sep. 1907, passed by the Asst. Com.r, Maddagiri Sub. Dn directing the levy of a duty + penalty amounting to Rs. 6-0-0, under the Mysore Stamp

over.

Feng 7

SUBJECT.

Regulation, on an unstamped lease executed by him in favour of one Thimma, a cultivator of the Swanagere village, Maddagiri Taluq.

2. Letter No 285 dated the 5th Jany 1913 from the D.C. of the Tumkur Dt. submitting a report with the connected records:—

Order thereon No 6398—406 & 2 dated 9 May 1913

Under the exemption in Article 33, Schedule I of the Mysore Stamp Regn, 1900, ale leases executed in the case of a cultivator for the purpose of cultivation, are exempt from stamp duty without the payment or delivery of any fine or premium,

(1) whatever the reserved or annual rent may be provided that the term fixed does not exceed one year

(2) whatever the term

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

May be, provided that the average annual rent reserved does not exceed Rs 100. Govt are of opinion that the lease in question is covered by class (2) referred to above and is is therefore exempt from Stamp duty. They are accordingly pleased ~~to admit the appeal and~~ direct that the duty + penalty, if levied from the Appellant, ~~should~~ be refunded to him.

26/4/17

Sec'y to Govt

The Dep.y Com.r Tumkur Dt with records

Dep.y Com.rs Other Dts

Comptroller to the Govt of Mysore.

2 drafts. 28/4/13

(15)

G.R.S. 34]

S. R. 236—11—5

No. H6407

GOVERNMENT OF H. H. THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

(S—R.)

Endorsement—

~~Office Memorandum~~

No.

Sivanagere Venkatasubba Rao,
Devanahalli

the 2—5—1913

With reference to his appeal petition, dated the 29th May 1912, Sivangere Venkatasubba Rao is informed that his appeal is admitted and orders have been issued to the Dy. Commr. of Tumkur, to refund the duty and penalty, if the same has already been levied from him

By Order

for

(draft) for Offg. Secy.

Govt.

GPB—10,000—13-8-10

MB 29/4